

TESTIMONY IN OPPOSITION TO HB 505

Mr. Chairman and Members of the Committee:

I am Ronald F. Waterman and appear here on behalf of myself in opposition to HB 505. As a matter of full disclosure, I am monitoring the results of the litigation filed against the Board of Medical Examiners arising from actions by the Board pertaining to dealing with disciplinary issues associated with physicians who assist patients in making choices regarding their final days of life.

HB 505 attempts to address and reverse components of the Baxter decision, which confirmed that physician aid in end of life decisions to competent terminally ill persons was lawful in Montana. The bill establishes an exception to the consent defense recognized in § 45-2-211, MCA, and to broaden the definition of suicide to include physician assistance to a patient in aid in dying.

HB 505 will create a substantial amount of uncertainty within the legal and medical communities. Given that the legislation defines "physician assisted suicide" as "any act by a physician of purposely aiding or soliciting another person to end the person's life," it is obvious that many acts of a physician will be implicated in this broad and general definition. Talking to a patient about end of life options could become an act of aiding or soliciting suicide. So could giving information to a patient about the effects which different drugs could have upon a patient or providing dosage information to a patient.

But this committee must understand that the act criminalizes more than just the acts of a physician, it criminalizes the acts of any person who aids another to commit suicide. Read in totality, the bill would criminalize a child who provided transportation to a parent who obtained any drugs later used to take a person's life. Indeed, it would make criminals of anyone who even spoke with any favor to another person concerning the act of suicide.

Recognizing that it has long been public policy to allow patients to receive medication to alleviate pain during their final days, the bill attempts to differentiate and not apply to the Rights of the Terminally Ill Act, § 50-9-101, et. seq., MCA. However, HB 505 only excepts out acts performed under the Rights of the Terminally Ill Act, which "may incidentally hasten the dying person's death." However, the Rights of the Terminally Ill Act authorizes a physician and other health care professionals to cease providing life sustaining treatment, which not only "incidentally" hastens a person's death but which directly results in a persons death. HB 505, if passed, will make criminals out of even those individuals who attempt to follow the language of the Rights of the Terminally Ill Act. This includes physicians, nurses and the institutions where they practice their professions, the hospitals in this state.

HB 505 has a large number of problems with it. Most notably, however, is the fact that it will make criminals out of patients, family members, physicians and other health care professionals who attempt to allow competent terminally ill persons to make end of life choices.

I would urge the committee to reject HB 505 and do not pass this legislation. Thank you.